

STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE  
45 Fremont Street  
San Francisco, California 94105

**INITIAL STATEMENT OF REASONS**  
*(Credit Insurance Agent Licensing Regulations)*

DATE: **June 27, 2003**

REGULATION FILE: **RH02024458**

INTRODUCTION

California Insurance Code sections 1758.9 through 1758.994, which became effective January 1, 2002, establish a regulatory scheme for licensing and regulating credit insurance agents. Under the new scheme, no person shall sell or solicit any form of credit insurance in this state, and receive a commission for doing so, unless that person is licensed as an insurance agent or broker, or is licensed as a credit insurance agent or endorsee under the newly enacted statutory provisions. The regulations proposed provide definitions and establish license application and training, management, disclosure and other requirements.

Pursuant to AB 393 (Chapter 321, Statutes of 2000) the Commissioner adopted emergency regulations to implement, interpret and make specific the provisions of the credit insurance agent sections. Following the promulgation of the emergency regulations the Commissioner conducted pre-notice public discussions with interested parties pursuant to Government Code Section 11346.45.

Based on comments received through that process, the Commissioner made certain modifications to the originally promulgated emergency regulations and now seeks to adopt these regulations on a permanent basis.

SPECIFIC PURPOSE AND REASONABLE NECESSITY OF REGULATION

The specific purpose of each subdivision, and the rationale for the determination that each subdivision is reasonably necessary to carry out the purpose for which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each subdivision is intended to address, is set forth below.

### Authority

Section 2192.1 recites the authority under which the regulations will have been promulgated. This section is reasonably necessary to inform interested parties of the authority under which the regulations will have been promulgated. Without this section, some interested parties could conceivably not be aware of the authority, despite its inclusion in the “notes” annotation following each section.

### Applicability

Section 2192.2 states that the regulations apply to all credit insurance agents, all applicants for a credit insurance agent license, and all persons who transact credit insurance, whether licensed or not. This section is reasonably necessary because some language in the regulations applies to persons acting as credit insurance agents even if not licensed.

### Definitions

Section 2192.3 defines some terms that are used, but not defined, in the credit insurance agent statute. Those terms include “authorized insurer,” “sell,” “solicit,” “endorsee,” “commission,” “compensation,” “fee,” and “material terms and conditions.” The definitions implement, interpret, and make specific terms used throughout the statutes (and throughout the regulations). This section is reasonably necessary to inform interested parties of the meaning of the defined terms. Without this section, some interested parties would likely apply different meanings to the defined terms.

Based on concerns expressed by some interested parties at the public discussion, two changes have been made to the text of the emergency regulations. First, a sentence has been added to subsection (e) to clarify when the term “commission” does not include salary paid to an unlicensed employee of a creditor. Second, the use of the definition of “fee” is now limited to Insurance Code section 1758.98(c) only.

### Applications; license term

Section 2192.4(a) specifies that a separate license must be applied for and obtained by each natural person (i.e., individual) before that person acts as a credit insurance agent, and that a separate license must be applied for and obtained by each organization before that organization acts as a credit insurance agent. The statute is somewhat unclear on these issues. This section is therefore reasonably necessary to inform interested parties that a credit insurance agent, whether an individual or an organization, must obtain a license before acting as a credit insurance agent. Without this section, some people might believe that a person could act as a credit insurance agent without a license due to his or her affiliation with a person who is licensed.

Section 2192.4(b) explains that a natural person may sell, solicit, or otherwise transact credit insurance as a licensed credit insurance agent or as an endorsee of an organization that holds a credit insurance agent license, and that a natural person may be named simultaneously as an endorsee of multiple organizations that hold credit insurance agent licenses. This section is reasonably necessary to inform interested parties that a credit insurance agent license may be obtained by natural persons, not merely organizations, and that a natural person may be an endorsee of multiple organizations that hold credit insurance agent licenses. Without this section, some people might believe that a natural person could not receive a license as a credit insurance agent, or could not be an endorsee of more than one organization.

Section 2192.4(c) states that a credit insurance agent license, whether issued to an individual or an organization, is valid for twelve months, and must be renewed annually by the anniversary of the issue date. This section is reasonably necessary to inform interested parties that a credit insurance agent license is valid for twelve months, and must be renewed annually by the anniversary of the issue date. Without this section, interested persons would not know that a credit insurance agent license is valid for twelve months, and must be renewed annually by the anniversary of the issue date. The Department established a twelve-month term, rather than a longer or shorter period, to coordinate the renewal filing with other filings licensees will need to make on an annual basis. (See Insurance Code section 1758.93)

Section 2192.4(d) requires that an individual credit insurance agent license applicant obtain electronic fingerprint impressions from the Department's vendor for that service, using the Request for Live Scan Service (form 442-39A). It further requires that the manager of each business location of an organization licensed as a credit insurance agent obtain electronic fingerprint impressions from the Department's vendor for that service, using the Request for Live Scan Service (form 442-39A).

This section is necessary because the Department uses complex computer hardware and software to collect fingerprints as effectively and inexpensively as possible. The Department employs an exclusive vendor for these computer services.

### Fees

Section 2192.5(a) recites that a \$300 fee must be paid at the time a credit insurance agent license application is filed with the Department, and a \$30 fee must be paid for each endorsee at the time an organization endorsement appointment form is filed with the Department. These fees were determined by the Commissioner in accordance with California Insurance Code Sections 1758.92(3) and 1758.93(3) and the Commissioner has preliminarily determined that the fees are sufficient to defray the actual cost of processing. This section is reasonably necessary to inform interested parties of the filing fees for a credit insurance agent application and an endorsee application. Without this section, interested persons would not know the amount of these fees.

Section 2192.5(b) states that a \$274 fee must be paid at the time a credit insurance agent license renewal application is filed with the Department, and a \$4 fee must be paid at the time an endorsee renewal application is filed with the Department. These fees were determined by the Commissioner in accordance with California Insurance Code Sections 1758.92(3) and 1758.93(3). This section is reasonably necessary to inform interested parties of the filing fees for a credit insurance agent renewal application and an endorsee renewal application. Without this section, interested persons would not know the amount of these fees.

Section 2192.5(c) provides that the Commissioner may refuse to issue a credit insurance agent license if the appropriate fees do not accompany the application. This section is reasonably necessary to avoid costly fee collection problems for the Department. Without this section, some applicants might delay paying their fees, or refuse to pay their fees, even after receiving a license. This in turn would necessitate expensive collection proceedings, which in some cases would not be successful and would thereafter require expensive due process to revoke the license.

Section 2192.5(d) provides that subject to the provisions of California Insurance Code Sections 1758.92(a)(3) and 1758.92(a)(3) the Commissioner may increase or decrease the fees set forth in these regulations to reflect the actual costs associated with processing the application and renewal transactions. This subsection was not in the emergency regulations, but has been added at the request of interested parties who want to ensure that the fees paid reflect actual costs.

### Disclosure

Section 2192.6(a) specifies that all disclosures required by Insurance Code sections 1758.97(a) and (b) must be printed and must be clear and conspicuous. This section is reasonably necessary to assure that disclosures are visible and understandable to consumers. Without this section, some persons might draft disclosures that were not visible and understandable to consumers.

Section 2192.6(b) states that an insurer must include in the evidence of coverage it provides to a purchaser, pursuant to Insurance Code section 1758.97(c), all provisions the insurer could rely upon to deny a claim. It further states that an insurer may not rely upon a policy provision to deny a claim unless that provision was included in the evidence of coverage. This section is reasonably necessary to assure that consumers are properly informed of all provisions their insurers could rely upon to deny a claim. Without this section an insurer could indicate that applicable provisions are contained in a master policy in the possession of a master policyholder. Consumers then would have to make a special effort to request a copy of the master policy contract terms applicable to them, when those terms could easily have been provided to them automatically at or shortly after the insurance purchase.

## Training

Section 2192.7(a) provides that training materials required by Insurance Code section 1758.93(b) must be prepared and submitted to the Commissioner, and must include training for all insurance products to be sold. This section is reasonably necessary to inform licensees and applicants that training materials must be submitted for all insurance products to be sold, not merely some of those products.

Section 2192.7(b) requires retraining of endorsees whenever there is a change in the insurance product(s) sold, but in no event less frequently than every two (2) years for each endorsee. This section is reasonably necessary to make specific Insurance Code section 1758.93(c).

Section 2192.7(c) states that if training materials have been developed by an insurer and approved by the Department of Insurance, the licensee may submit, in lieu of the training materials, a letter, signed by the licensee's manager or a corporate officer, stating that the licensee will use the approved training materials filed by the insurer. This section is reasonably necessary to permit credit insurance agents to use, without resubmitting, training materials that are already on file with, and approved by, the Department.

## Records

Section 2192.8 requires credit insurance agents to comply with the provisions of Insurance Code section 1727 and Article 7 of Chapter 5 of Subchapter 1 of Title 10 of the California Code of Regulations, commencing with section 2190. This section is reasonably necessary to assure that credit insurance agents maintain records necessary for the Department to audit their operations so as to ensure their compliance with California law.

## Forms

Section 2192.9(a) recites various forms by form number which credit insurance agent applicants and licensees must submit to the Commissioner for various purposes. These include: (1) A written application for licensure must be made on Form 441-9 for individuals and on Form 441-11 for organizations; (2) The credit insurance agent notice of appointment must be made on Form LIC.CI 20; (3) The employee affidavit of training and knowledge must be made on Form LIC.CI 50; (4) The annual certificate of compliance and listing of authorized endorsees must be made on Form LIC.CI 40; (5) The annual training material submission must be made on Form LIC.CI 10; (6) Fingerprint impressions must be requested, and their having been taken evidenced, by completion and submission to the Department of a Request for Live Scan Service using Form 442-39A; (7) Organization endorsements must be made using Form 411-8A.

This section is reasonably necessary to inform applicants and licensees of the proper forms to use for various filings required by the statute.

Section 2192.9(b) requires that training materials submitted to the Commissioner contain all of the elements set forth in Form LIC.CI 30. This section is reasonably necessary to inform licensees of the specific training materials that must be submitted.

Section 2192.9(c) provides that all forms set forth in Section 2192.9(a) are incorporated by reference in the regulations in their entirety and are available upon request, by telephone or in writing, to the Department of Insurance, and on the Department of Insurance website, [www.insurance.ca.gov](http://www.insurance.ca.gov). This section is reasonably necessary to inform interested parties as to how they can obtain the forms used that need to be submitted to the Department by credit insurance agent applicants and licensees.

### Certifications

Section 2192.10 provides that any certification required by Article 16.7 of Chapter 5 of Part 2 of Division 1 of the Insurance Code (commencing with Section 1758.9) must be made under penalty of perjury under the laws of the State of California. This provision is reasonably necessary to assure that certifications are made after proper diligence by applicants and licensees to assure the truth and accuracy of the matters certified.

### Limitations on the credit insurance agent's authority to transact

Section 2192.11 provides that a person licensed as a credit insurance agent may not sell credit insurance in connection with a loan in excess of \$60,000, relating to or secured by real property, or where the repayment period for any loan or extension of credit exceeds ten years. This provision is reasonably necessary to clarify confusing language in Insurance Code Section 1758.96 and clearly set forth the Legislature's intended limitations on the credit insurance agent's authority to transact.

### Endorsee termination and renewal

Section 2192.12 states that the Department must provide an organization that holds a credit insurance agent license a list of its endorsees at least 90 days prior to the annual renewal of the organization's license. The organization must terminate endorsees no longer employed by the organization by striking through those endorsees' names, having an officer sign and date the list, and return the list to the Department along with the renewal fees for the non-stricken, active endorsees. The organization must return the endorsee list with an Annual Certificate of Training and List of Endorsee Form LIC.CI 40 to certify that the endorsees have received required training. The submission of the list to the Department will satisfy the credit insurance agent's duty to submit an annual listing of endorsees pursuant to Section 1758.93(b).

This provision is reasonably necessary to inform the industry of the procedure to follow to delete endorsees, to pay the annual fee for maintaining active endorsees, and to certify that endorsees have received training or retraining, all as required by Insurance Code Sections 1758.93(a)(3) and 1758.93(b).

## IDENTIFICATION OF STUDIES

The Commissioner has complied with California Insurance Code Sections 1758.92(3) and 1758.93(3) and has preliminarily determined that the amount of the fees set forth in these regulations at Sections 2192.5 (a) and (b) are in amounts sufficient to defray the Department's actual costs of processing the license application or the license renewal required by these regulations. Documentation of the costs considered by the Commissioner are contained in the rulemaking file for these regulations and are available for inspection and copying by contacting the contact person above.

## SPECIFIC TECHNOLOGIES OR EQUIPMENT

Adoption of these regulations would not mandate the use of specific technologies or equipment.

## ALTERNATIVES

The Commissioner has made a preliminary determination that no reasonable alternative exists to carry out the purpose for which the regulations are proposed.

## ECONOMIC IMPACT ON SMALL BUSINESS

A small business seeking to obtain a credit insurance agent license will have to pay a \$300 license fee for the organization, and \$30 for each employee it seeks to license as an endorsee. The Commissioner estimates that most small business will have fewer than five employees selling credit insurance on commission that have to be licensed as endorsees. Labor costs in completing the application forms, issuing a check for the fee, etc. should not exceed \$100. Annual ongoing costs primarily involve license renewal fees. The regulation sets these fees at \$274 for the organization, and \$4 for each endorsee.

## PRE-ADOPTION PUBLIC DISCUSSION WITH INTERESTED PERSONS

The Department held a workshop on March 27, 2002 to receive comments from persons representing insurance companies, credit unions, and credit insurance agents whose companies

or clients will be most affected by the regulations. Several comments received at the workshop have been incorporated into the regulations.

Date:

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